



U.S. Department of Justice

Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

Conflicting data deleted to
prevent clearly unwarranted
invasion of personal privacy

FILE: [REDACTED]

Office: Vermont Service Center

Date: DEC 08 2002

IN RE: Applicant: [REDACTED]

APPLICATION:

Application for Permission to Reapply for Admission into the
United States after Deportation or Removal under Section
212(a)(9)(A)(iii) of the Immigration and Nationality Act, 8
U.S.C. 1182(a)(9)(A)(iii)

IN BEHALF OF APPLICANT: Self-represented

PUBLIC COPY

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center, and a subsequent appeal was dismissed by the Associate Commissioner for Examinations. The matter is before the Associate Commissioner on a motion to reopen. The motion will be dismissed, and the order dismissing the appeal will be affirmed.

The applicant is a native and citizen of Guatemala who was present in the United States without a lawful admission or parole on February 25, 1992. An Order to Show Cause was served on him on September 10, 1992. On March 1993, an immigration judge found him deportable, denied his applications for political asylum and withholding of deportation, and granted him until May 30, 1995, to depart voluntarily in lieu of deportation. The Board of Immigration Appeals (BIA) remanded his appeal on June 10, 1998. On March 1, 1999, after failing to appear for the hearing with his counsel, he was ordered removed from the United States and was found to have abandoned any and all relief from deportation.

Therefore, he is inadmissible under section 212(a)(9)(A)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1182(a)(9)(A)(i). The applicant seeks permission to reapply for admission into the United States under section 212(a)(9)(A)(iii) of the Act, 8 U.S.C. 1182(a)(9)(A)(iii), to remain in the United States.

The director determined that the unfavorable factors outweighed the favorable ones and denied the application accordingly. The Associate Commissioner affirmed that decision on appeal.

On motion, the applicant states that he is not a criminal, has been in the United States for almost 10 years, came to this country to find a better life, and wants to legalize his status.

8 C.F.R. 103.5(a)(2) provides that a motion to reopen must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence.

8 C.F.R. 103.5(a)(3) provides that a motion to reconsider must state the reasons for reconsideration; and be supported by any pertinent precedent decisions.

8 C.F.R. 103.5(a)(4) provides that a motion which does not meet applicable requirements shall be dismissed.

The issues in this matter were thoroughly discussed in prior proceedings. Since no new issues have been presented for consideration, the motion will be dismissed.

ORDER: The motion is dismissed. The order of August 29, 2001, dismissing the appeal is affirmed.